

SPRAYING LAW VOID.

The Legislature Wrongfully Delegated Legislative Powers

THE LAW IS INOPERATIVE.

WRIT OF PROHIBITION ORDERED TO ISSUE AT ONCE.

Chief Justice Merritt Working on the Law and Motion Calendar—Two Divorce Suits Filed in the Third District Court—Also One Suit for Foreclosure.

Chief Justice Merritt yesterday handed down his decision on the application of J. W. Whitehead, Jr., for a writ of prohibition to prevent Justice of the Peace Harvey from trying the case brought against Whitehead by the fruit tree inspector in which it was charged that he had violated the law by failing to spray his fruit trees. Attorney D. B. Hempstead argued for the writ of prohibition on behalf of Mr. Whitehead some time ago, raising the point that the law was unconstitutional for the reason that it delegated legislative power to the probate judge, the county court and the fruit tree inspector in that it empowered these officials to determine the seasons for the year when spraying should be done, the number of sprayings and the kind of spraying mixture to be used.

County Attorney Whittemore appeared against the writ, and as a reason why it should not be granted, contended that it was not a delegation of legislative power and that the duties of the officials were simply ministerial. Judge Merritt took the matter under advisement after the arguments and yesterday, in delivering his opinion, said that the legislature might properly have legislated on the matters delegated to the county court, probate judge and inspector. He was of the opinion that the delegation of power was illegal and unconstitutional and the writ of prohibition must, therefore, be granted.

This decision renders the fruit spraying law inoperative.

Out of His Precinct.

The case of Thomas B. Shannon against the Studebaker Brothers Manufacturing Company came up on a motion and motion calendar on a motion to dismiss. Judgment was rendered by Justice Whitehead in favor of the plaintiff, but it was contended that as Whitehead, who is a justice of the first precinct, held court in the Eagle block, which is in the second precinct, the judgment was illegal and void. The honor so ruled and the judgment was quashed.

LAW AND MOTION CASES.

A Number of Important Matters Deceased Of.

Chief Justice Merritt yesterday beginning commenced work on the law and motion calendar. The first case to come up was that of Edward T. Singer vs. the Salt Lake Copper Manufacturing company et al, which was ruled for having on demurrer to the cross-complaint and on demurrer to the complaint in intervention.

On motion of McCallum & Hoppaugh, the hearing on the motion requiring the receiver to pay Dwyer & Co. was continued and judgment was set for September 7.

On motion of Attorney Frank Pierce, representing the Harrison interest, the demurrer to the supplemental and amended complaint was withdrawn and ten days given to answer.

On motion of Attorney Waldemar Van Cotti it was ordered that David May, trustee, furnish within ten days, a copy of Crocker's demurrer to the cross-complaint and the demurrer to the complaint in intervention and ten days given to answer.

Salt Lake Lithographing company et al. vs. the Bess Mines and Smelting company et al; further hearing on receiver's report continued until Saturday.

F. E. Gregg vs. Elbridge Tufts; order made allowing withdrawal of Marshall's return and leave granted to file amended return.

M. J. Franklin, administrator, vs. W. S. Fugate; L. M. Gilliam substituted as administrator, motion to file complaint on intervention granted.

Rutherford vs. C. S. Kinney; demurrer withdrawn and twenty days given to answer.

Adam Kuhn et al. vs. John Harrington et al; motion for judgment on referee's report granted; thirty days suit allowed.

Philo E. Jones vs. Mary E. Jones; motion for suit money referred to T. Marioneaux to take testimony and report.

Salt Lake City Foundry and Manufacturing company vs. Salt Lake Co-op Iron works et al; demurrer to third amended complaint sustained and ten days given to answer.

Gertrude Castagno vs. Nat. M. Brington; demurrer to complaint overruled and ten days to answer.

L. A. Scott Elliott vs. George C. Whittemore; change of venue and motion for a new trial argued and submitted; motion to retax costs waived.

N. R. Waterman vs. D. C. Robbins; cause suit dismissed.

Charles Foreman vs. John F. Updegraff; dismissed with leave to restate.

J. L. Rawlins et al. vs. Martin McGraw et al; demurrer to complaint overruled and twenty days to answer.

District Court Filings.

Kathleen Catherine Adamson is suing for a divorce from William Adamson on the ground of failure to support. The plaintiff alleges that the marriage took place on August 25, 1887, at South Cottonwood, this county, and that for more than a year past the defendant has failed and neglected to provide her with the common necessities of life, although amply able to do so. She also alleges that he is worth \$1,000 and is in receipt of a salary of \$70 a month. She prays for a decree of divorce, the custody of their three minor children, an equitable division of the property and \$30 a month permanent alimony.

Alleges Cruelty.

Charles H. Gillett has begun suit for divorce from Julia E. Gillett, alleging that the marriage took place at Ionia, Mich., on December 11, 1871, and that on September 5, 1891, she was guilty of extreme cruelty to him by converting to him a loathsome venereal disease which she had contracted from some person unknown to the plaintiff; that by reason of this the defendant abandoned the plaintiff and has lived apart from him ever since, wherefore he prays for a decree of divorce.

Suit for Foreclosure.

Elmer E. Darling, trustee of the Pioneer Loan and Homestead association, has begun suit in the Third district court against Hyrum Johnson et al to recover \$1,374.22, price of

eleven shares of the capital stock of the Pioneer Loan association, and interest and fines alleged to be due under the rules of the association. The plaintiff holds a mortgage on certain real estate as security, and asks that same be sold and the proceeds applied on the judgment.

Dr. Price's Cream Baking Powder
World's Fair Highest Medal and Diploma.

HIS POINT OF VIEW.

The engagement of Miss Gertrude Vandell and Moses Taylor is said by the Associated Press to be "condoned by friends." It is a case of millions marrying millions; but in addition to his cash, Moses plays a good game of polo.

"Sedan Day" was a hummer at Garfield Beach, and will long be remembered by the Germans in Utah as being a red-letter day. Man and woman, girl and boy, all enjoyed themselves in their own way, and none went home dissatisfied.

Among those, it may be truly said, who enjoyed themselves most heartily, was the German who had a kind word for everybody; and if anyone noticed a symptom of "that tired feeling," on Mt. Barratt yesterday, let me say that it was duly acquired by the man who had the comfort of the German guests.

Captain Donovan is right in his demands for an open investigation, and he is right in the point that the people who pay money to the salaries of the police shall be admitted. Let this case be one, at least, where the commission shall "have the line," let the chips fall where they may. If all is to be believed—if even half the rumors floating around the streets be true—then the captain will not be the only one who will suffer.

It has been an open secret for some time that several of Captain Donovan's alleged friends have advised him to resign, as the easiest way of getting out of the trouble; I am pleased to observe that the captain stands pat, and is willing to let his record while a member of the force be laid before the taxpayers.

The public has the right to know of the doings of its servants—whether their names be Donovan or Pratt, McDonald or Ford.

The commission is to be congratulated on the selection of Charles Livingston as desk sergeant. He made a good and efficient officer in the years ago, and will prove to be the right man in the right place now.

A little work on the part of the city officials, it seems to me, would put an end to the fires now raging in the mountains near by. The situation is humorous, indeed; one may not cut a twig to use as a cane or brush off the flies in the city hall, but the city officials now sit idly by and allow thousands of dollars' worth of damage to be done.

Dr. Fall

No adulteration used in the manufacture of High Grade Three Crown Baking Powder.

CHARGE AGAINST TURPIN.

HE ENTERED A PLEA OF GUILTY TO PLAIN DRUNK.

The Other Charge of Assault with Intent to Rape Withdrawn—He Is Sentenced to Sixty Days in the County Jail.

Joseph Turpin, the man who was arrested on Monday evening and booked on a charge of committing an assault with intent to rape upon Mrs. Margaret Harrison, was brought before Judge Harrison yesterday for a hearing on the demurrer to the supplemental and amended complaint, which was withdrawn and ten days given to answer.

On the witness stand he said that he had been informed by some one that Mrs. Harrison was a woman of the kind who are not averse to receiving advances from men, and that under this impression he had committed the assault. He said that he had been informed by some one that Mrs. Harrison was a woman of the kind who are not averse to receiving advances from men, and that under this impression he had committed the assault.

Mrs. Harrison testified as to the identity of her assailant, and thought that some other motive than the robbery induced Turpin to commit the assault. The defendant said he would be willing to enter a plea of guilty to simple assault, and on the advice of the county attorney the more serious charge was withdrawn and assault substituted. The defendant waived time for sentence, and his honor sentenced him to sixty days' imprisonment in the county jail and to pay the costs of the case.

Illegal Duck Shooters.

George Lund and John H. Brown were each fined \$20 and \$50 costs yesterday in United States Commissioner Pratt's court for unlawfully killing wild ducks and snipe on Sunday, September 1, the territorial law of the opening of the season on October 1.

They claimed that they were under the impression that the season began on September 1, but it appeared that at least one of the defendants had been told on August 30, so that plea didn't help them much.

Cutting Acquaintances.

There are some acquaintances we would be glad to cut. They do us no credit and draw too largely upon our kindness and our cash. Other acquaintances there are who drain our life's blood and sap our vitality. Dyspepsia and its accompanying evils, impure blood, mental depression, night-mares, fear and nervousness are acquaintances that we should be glad to cut. Head this, 30 sufferers' Talk. Dr. Pierce's Golden Medical Discovery and your unpleasant acquaintances will soon be gone, for this sovereign remedy drives out all the impurities from the system. Sent for free pamphlet. Address World's Dispensary Medical Association, Buffalo, N. Y.

Ogden and Return \$150.

Via Rio Grande Western on September 4th and 5th. Tickets good until September 6th.

Cans, labels, boxes, etc., are all made here, that are used for Hevel's Baking Powder.

PROBATE COURT.

Estate and guardianship of William R. Collett, a minor; Ades Collett appointed guardian.

Estate of Lars Johnson; Elmine J. Johnson appointed administratrix.

Estate of Stephen A. Essex; claims amounting to \$1,275 approved.

Extension to Saltair.

Former citizens of New York, Ohio and Indiana will join with the Colorado, Nebraska and Iowa excursionists on Thursday, Sept. 5th. It bids fair to rival one of the World's Fair days. The lake season will soon be over, and the people will embrace the opportunity to enjoy a good old-fashioned excursion day.

IN RAILWAY CIRCLES.

THE EXCURSION SEASON IS ON THE WANE.

The Special Train for the Democratic Convention—"Peach Day" at Grand Junction—The Latest by Wire—Local Notes.

The excursion season is now on the wane, and ere long bathing at the lake resorts will be a thing of the past. The Union Pacific took the initiative yesterday by announcing the following new schedule for Garfield, in effect to-day: Trains will leave Salt Lake at 7:45 a. m., 10 a. m. and 2:30 p. m. Returning, trains will leave the beach at 9 a. m., 12:30 p. m., 2:40 p. m. and 5:30 p. m.

CONVENTION SPECIAL.

Starts from the Union Pacific Depot at 8:30 Sharp.

In the last of the streets the Union Pacific special train for the delegates to the Democratic convention on Thursday will be the boss. The usual furnishings and appointments of the train will be the last, and in addition it will be profusely decorated with flags, flowers and bunting, so that the delegates will go into convention to name the winners with flying colors.

The train originates at Omaha, and will pick up delegates at different points on the road until it gets to Salt Lake, where the cars for the Salt Lake delegates will be switched on. Several bands will accompany the train, so that harmony is sure to prevail.

RAILWAY MAIL CLERKS.

Executive Committee Holds an Interesting Session.

CHICAGO, Sept. 3.—The executive committee of the United States Railway Mail Clerks' association was in session here last night. The principal discussion was on the demand which the mail clerks who have runs on the smaller lines and who are paid by the mile, have made. There are some 2,500 of these clerks. The government has agreed to pay them on the basis of 120 miles per day, but the clerks have insisted that 110 miles should be enough for that purpose.

The committee took action favorable to the demand of the clerks.

There was much discussion upon the question of a general reclassification of all clerks. Upon this subject a harmonious conclusion was reached, but what the conclusion was the clerks refused to make public.

W. T. Blackmer, of Detroit, is president of the association. The other members who attended the meetings were: J. C. Wallace, Burlington, Ia., secretary-treasurer; G. A. Hardner, Harrisburg, Pa.; T. S. Bradshaw, Washington, D. C.; M. Yeandle, Atlanta, Ga.; W. W. Warner, Chicago; A. H. Fuller, Omaha; S. Z. Ettinger, St. Louis; C. C. Riches, Portland, Or.; Mr. Blunderman, Buffalo, N. Y.; George F. Fox, St. Paul, and George Francis, San Antonio, Tex., directors.

The twenty-first annual convention of the Railway Postal Clerks' Mutual Benefit association convened this morning at the Palmer house. The convention will be in session three days. About 170 delegates are expected to attend the sessions.

THE NORTHERN PACIFIC.

Judge Hanford's Decision Will Not Affect the Receivership.

MILWAUKEE, Wis., Sept. 3.—A railroad man who is close to the Northern Pacific receivers said that Judge Hanford's decision at Seattle yesterday in the Northern Pacific receivership case would not in any way affect the receivership, except to transfer the legal business of the receivership from Milwaukee to some one of the courts through which the road passes. He said that Judge Hanford's decision pointed the same receivers and he did not discharge them except for cause. When they were first appointed the Northern Pacific had property in this jurisdiction, and there was no doubt of the jurisdiction. The trouble came on the filing of the second bill of foreclosure. The Brayton-Lives fact may institute proceedings in some of the western courts to oust the receivers similar to the action they brought in a military court, but I hardly think it probable.

Peach Day at Grand Junction.

Today is "Peach Day" at Grand Junction and one that is looked forward to by the people there as the great annual event.

People from Colorado and Utah and many eastern people who come west on special low rates at this season of the year, flock to Grand Junction and fill up on the luscious peaches that are free to all.

Last night's B. G. W. No. 4 took out from this city twenty-five people for that event, and among them were the following wheelmen: George Weber, Frank Thatchner, H. B. Connibear, R. Z. Conely, Charles Emise, A. E. Hyde, Ed. and Mr. Schaefer, H. B. Schaefer and Weller expect to enter for the bicycle races there today.

Railway Notes.

J. M. Moore, general agent of the Union Pacific coal department, returned from Butte yesterday.

General Agent Kogser, of the Missouri Pacific, and General Agent Oglesby, of the Rock Island, were out of the city yesterday on business.

Judge Dundy and family arrived in the city last evening. They came in over the Union Pacific in a private car.

General Superintendent Bancroft has said that the "special" to Ogden tomorrow will gather no moss on the way.

The Union Pacific excursion to the Hot Springs, north of Ogden, on Monday, was a hummer. Thousands visited the resort and all speak highly of the treatment accorded by the able management of the Springs.

Railroad Blacksmiths.

CLEVELAND, Ohio, Sept. 3.—The Cleveland National Blacksmiths' association commenced a four days' convention here today with about 50 delegates in attendance, representing all parts of the country. The association was organized at Chicago during the World's fair, being composed of foremen of departments in the blacksmith shops of locomotive and car factories.

A number of papers were read at today's session upon topics pertaining to the trade.

The Terminal Railroad.

LOS ANGELES, Sept. 3.—During the past six weeks it is reported that the terminal railroad has had two corps of engineers in the field. One is in the Arroyo Seco and the other is in the

vicinity of Elizabeth, which is about thirty miles from the north end of the San Francisco canyon.

The route chosen will run up the Arroyo Seco, and then turn southwest. From this point the line will stretch across the plains to Barstow, where, turning north to the east of Calico, it will extend up to the verdant Los Vegas valley to Pioche, from which point the road has already been graded and bridged 110 miles to Milford, Utah, southern terminus of the Utah Southern railway.

Southern Pacific Receiver.

SAN FRANCISCO, Sept. 3.—The possibility for a receivership for the Southern Pacific company is an inference from the testimony given before the railroad commissioners by G. L. Lansing, secretary and controller of the company, which is fighting a proposed reduction in freight rates. The statement was guarded with qualifying clauses and the possibility was set for the remote future.

In the midst of his financial statement, Lansing declared that the reduction in the net income for 1894 from that of 1893 was \$2,276,000, and to this statement was attached the receivership inference. This reduction, he declared, was a striking amount. The net income for 1894 was not due to abnormal conditions, and whether there would be a return to better conditions, but if this should not follow to some extent, then there would be a critical situation for the railroad company. Of course the railroad company could carry its indebtedness for some time, but should the present state of affairs continue, eventually reorganization through legal process would ensue. The unsatisfactory condition at present was due to the general depression in all branches of business, from which the railroad suffered in common with all other industries.

According to Secretary Lansing, the total income of the road for the first six months of this year was \$1,791,000. The operating expenses and fixed charges for the same period was \$16,270,000. The net income, therefore, stated that there is a deficit for the first half of the year of \$1,479,000.

Railway Notes.

Mr. James F. Fuller has been appointed contracting agent of the Denver & Rio Grande railway.

Mr. W. L. Utley has retired from the position of superintendent of telegraph of the Chicago, Iowa & Dakota.

Mr. H. Cooley has resigned as superintendent of the Shasta division of the Southern Pacific on account of ill health.

Mr. E. D. Harrington has been appointed traveling secretary agent of the Southern Pacific, with headquarters at Philadelphia.

Mr. F. R. Hubbell, of Texarkana, Tex., formerly third vice-president and traffic manager of the Texas and Fort Smith, has been chosen president of the Pan American Railway company.

Mr. C. H. George has been appointed superintendent of telegraph of the Chicago, Iowa & Dakota, with headquarters at Eldora, Ia.

The convention of the Roadmasters' association will be held at the Southern hotel, St. Louis, commencing Oct. 11. Supply houses desiring to make exhibits should address W. H. Starnes, secretary of the Road and Track association, Monmouth block, Chicago.

Mr. J. G. Miller has resigned as assistant general freight agent of the Atchafalaya, Topeka & Santa Fe at Chicago, to accept the position of manager of the Chicago department of the Laidlaw-Powder company.

The engines which the Mobile & Birmingham railroad recently ordered of the Baldwin Locomotive works to be delivered about Sept. 1. They will weigh 50 tons and are equipped with all modern appliances.

The Memphis Car & Foundry company is building 100 box, 100 flat and 8 stock cars of 60,000 pounds capacity, for the Mobile & Birmingham railroad. These cars are to be equipped with the Westinghouse air brakes and Hinson couplers and delivery will be made in November.

Mr. J. E. Gorman, chief clerk of the general freight department of the Atchafalaya, Topeka & Santa Fe, has been appointed assistant general agent of that road, with headquarters at Chicago, taking effect Sept. 1, to succeed Mr. J. G. Gorman.

The Baldwin Locomotive works are building one engine for the Cleveland & Erie railroad.

The Santa Fe, Prescott & Phoenix has placed an order with the Brooks Locomotive works for two engines.

The Erie Car works, of Erie, Pa., have an order from H. W. Vick & Co., incorporated, for 50 drop bottom gondolas.

A Sound Basis.

The testimonials published by the proprietors of Hood's Sarsaparilla are not enhanced, nor are they in their office, nor are they from their employees, but they are facts from truthful and grateful people who are reliable and as worthy of confidence as if they came from our most trusted neighbor.

Hood's Pills are the best family cathartic and liver medicine. Harmless, reliable, sure.

PERSONAL MENTION.

J. F. Tolton of Beaver is a Cullen guest.

W. R. Malone returned to the city yesterday.

Samuel A. King of Provo is at the Templeton.

A. E. Snow of Bingham City is at the Templeton.

B. F. Caffey, a Castle Gate merchant, is at the Cullen.

Adison Byler of Indianapolis is a Knutsford guest.

G. S. Boreman is down from Ogden and at the Walker.

A. H. Bemis, a Bingham mining man, is a Walker arrival.

J. H. Knauss of Ogden is photographed at the Walker.

A. K. Klopstein and wife are in from Bingham and at the Walker.

J. K. W. Bracken is in from Bingham Canyon and at the Knutsford.

George Hardone and F. C. Grafton of Butte are stopping at the Templeton.

Miss Madge Ryan and Miss Flood are arrivals from Chicago at the Templeton.

Dr. Weno, Mrs. Weno and Miss Weno of Chicago are stopping at the Knutsford.

James P. Low of Smithfield, and James Harkins of Eureka are at the Walker.

Mr. N. E. Packard and daughter of Boston, Mass., are guests at the Templeton.

J. W. Steel of Anaconda, William Mooney and wife of St. Paul are at the Templeton.

Dr. George H. Fennimore and Alfred Fennimore of Beaver are registered at the Walker.

W. Mackey, J. V. Kane, C. J. Cunningham, Peter Forrester of Buffalo, N. Y., are at the Walker.

Mrs. S. S. Derickson and Mrs. Sarah D. Naylor of Meadville, Pa., are arrivals at the Knutsford.

J. M. Douglas of Des Moines, Iowa, accompanied by his wife and daughter, is at the Templeton.

J. W. Searles, who has just returned from a trip through southern Utah in the interest of mining properties, is at the Cullen.

D. J. Thomas, state mining inspector of Wyoming, with his wife and family, are in Salt Lake for the benefit of Dr. Tillman's teeth without pain.

Teeth without pain; a specialty; 33 and 34, over Walker Bros. & Fyler's store.

HERE IS THE RESULT.

Territorial Board Nearly Completes Its Labors.

VALUE OF STOCK AND LAND

SALT LAKE COUNTY THE RICHEST OF ALL, OF COURSE.

Weber County Shows a Gratifying Growth in Real Estate, But Has a Falling Off in the Values of Personal Property—Utah County Shows a Slight Increase—The Figures on the Result.

The territorial board of equalization yesterday completed its labors to this extent that the following table of results is announced. In this connection it may be well to state there are four changes in the assessed valuation as returned by the assessors of the various counties. In Grand county there is an increase of \$33,959 on the assessed valuation of sheep; in Wayne \$3,656 on cattle; in Tooele \$41,091 on sheep, and in San Juan \$5,559 on sheep and \$88,594 on cattle.

Salt Lake county leads in the valuation of property, both real and personal, although there is a decrease in the latter of \$327,277. The increase in the valuation of real estate is noted at \$33,972.

Weber, the second county in line, comes in with an increase of \$1,020,179 on the value of real estate, and a decrease of \$122,086 on personal property. Utah county shows a gain on real estate and personal property. The number of cattle in Tooele county was not reported and the number of sheep in Salt Lake county is an estimated one. Wayne county shows no sheep on the return as regards number.

The following table will convey to the reader an accurate idea of the work of the board:

County.	1894.
Beaver	326,000
Box Elder	1,225,155
Cache	3,806,458
Carbon	228,019
Davis	2,188,821
Emery	313,339
Garfield	384,535
Grand	70,468
Iron	426,908
Juab	1,237,766
Kane	217,883
Millard	467,131
Morgan	375,635
Minia	148,525
Rich	597,101
Salt Lake	32,218,821
*San Juan	12,771
Sampete	2,207,255
Sevier	782,888
Summit	1,873,633
*Tooele	732,883
Utah	5,714,095
Uintah	353,171
Wasatch	713,925
*Wayne	109,135
Washington	545,965
Weger	11,112,101